

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BEN ARMSTRONG,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION FILE NO.
	:	_____
ERLING MENGSHOEL, JR.,	:	
	:	COMPLAINT AND
	:	JURY DEMAND
	:	
Defendant.	:	

VERIFIED COMPLAINT

Plaintiff Benjamin Armstrong (“Armstrong” or “BitBoy Crypto”) hereby files this Verified Complaint against Defendant Erling Mengshoel, Jr. (“Mengshoel” or “Atozy”) for defamation, defamation per se, intentional infliction of emotional distress, negligent infliction of emotional distress, tortious interference with business relations or potential business relations, violation of uniform deceptive practices act, and violation of fair business practices act. Armstrong also seeks punitive damages and attorney's fees. In support of his claims, Armstrong alleges the following:

NATURE OF THE ACTION

1.

Plaintiff is a sole proprietor who operates under a well-known social-media handle name “BitBoy Crypto.” Under this name, Plaintiff disseminates valuable information via various social media platforms on the Internet. Plaintiff’s business model relies on his reputation and his status as an “influencer,” i.e., a well-known online personality who influences others’ decisions such as to buy or sell cryptocurrency as investments.

2.

Defendant Mengshoel is an online personality. He uses the social-media handle name “Atozy” to post videos and tweets concerning the activities of individuals in various industries.

3.

Upon information and belief, one of Mengshoel’s strategies for gaining more notoriety is to launch caustic personal attacks on a variety of individuals for the entertainment value that his audience might find in such attacks.

4.

As part of the strategy, Mengshoel turned his sights on Bitboy Crypto. Mengshoel made defamatory and damaging statements about Armstrong that were intended to harm Armstrong and his business.

5.

Plaintiff brings this action to recover damages for Defendant's efforts to defame Armstrong and otherwise to diminish or interfere with his online business endeavors.

PARTIES, JURISDICTION, AND VENUE

6.

Armstrong is an individual who resides and works in Acworth, Georgia.

7.

Mengshoel is an individual who resides in Sterling, Virginia.

8.

This Court has subject matter jurisdiction under 28 U.S.C. § 1332 because the matter in controversy, exclusive of interest and costs, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00), and diversity of citizenship exists.

9.

Venue is proper in the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1391(b)(2), as a judicial district in which a substantial part of the events giving rise to the claim occurred.

FACTUAL ALLEGATIONS

A. BitBoy Crypto

10.

“BitBoy Crypto” is an industry-leading source of reliable commentary with respect to investments in cryptocurrency, i.e., virtual currency based on cryptography technology which serves as an alternative to government-issued fiat currency as a store of value.

11.

Cryptocurrency is relatively new, technical in nature, and not widely understood. There are numerous cryptocurrencies in which people may invest, the most well-known of which is Bitcoin. Investing in cryptocurrency on a cryptocurrency exchange is in some respects like trading traditional stocks in the stock market. There are, however, important differences with respect to the transparency of cryptocurrency exchanges, the liquidity of various

cryptocurrencies and the limited availability of information and informed analysis of cryptocurrencies available for investment.

12.

Expert analysis and advice are useful to consumers in considering cryptocurrency investment decisions. Through BitBoy Crypto, Armstrong provides video commentary regarding cryptocurrency investments.

B. Atozy Accuses BitBoy Crypto of Scamming His Fans

13.

On or about November 8, 2021, Defendant Mengshoel under his DBA “Atozy” posted a video on YouTube entitled “This Youtuber Scams His Fans...BitBoy Crypto.” (“Atozy’s Video”).

14.

Atozy’s Video concerns a BitBoy Crypto Video regarding an investment in a particular cryptocurrency called Pamp.

15.

Atozy’s Video makes repeated attacks on Armstrong’s honesty, credibility and reliability. Atozy’s Video repeatedly calls Armstrong a “dirtbag” stating that he is a “shady dirtbag” and a “dirtbag YouTuber.” Atozy’s Video claims that it will

“expose him [Armstrong] as the dirtbag he is,” and states several times that Armstrong is one of a group of “dirtbag influencers.”

16.

Atozy’s Video continues Atozy’s “dirtbag” attack with this statement: “so in case you didn’t know what an absolute sleazy dirtbag of a YouTuber is, here’s BitBoy Crypto, a prime example of that.” On another occasion, Atozy’s Video states that “this man [Armstrong] has enriched himself by being an all-around dirtbag.”

17.

Atozy’s Video directly attacks Armstrong’s livelihood stating that when it comes to cryptocurrency advice, Armstrong is “not someone you should be looking up to for any advice whatsoever.” To drive the point home, Atozy’s Video asks “how is this man a reputable source for crypto investment advice?” The Atozy Video answers its own rhetorical question stating that Armstrong “cannot be trusted with financial advice because you don’t know whether he’s trying to enrich you or himself.”

C. Atozy's Accusations Were Knowingly False or Made with Reckless Disregard of Their Falsity

18.

Without any factual support, the Atozy Video conjures a scenario in which Armstrong is allegedly paid to sell a cryptocurrency on behalf of “scammers” to help them find “suckers” who will buy the “scam” cryptocurrency. The Atozy Video asserts, again without any facts in support, that “BitBoy and the other dirtbag influencers brought the scammers to the inexperienced investor who is sadly the sucker.”

19.

Atozy’s Video states that BitBoy Crypto’s video “is so deceptive and misleading to investors, I’m surprised its even allowed on YouTube to begin with.” Atozy’s Video also asserts that BitBoy Crypto’s video “is beyond misleading.”

20.

The Atozy Video adds to its claims of fraud and deceit, if not outright theft, with another baseless accusation that Armstrong will run afoul of the law stating that “it’s basically inevitable the SEC is going to get involved because dirtbags like this [Armstrong] cannot resist the urge to take that quick buck and just milk their audience for some extra money.”

21.

Mengshoel via his Atozy Video is publishing to the public false accusations that Armstrong engages in fraud, deceit and theft that will result in civil and/or criminal charges against him by the Securities and Exchange Commission-- the government agency that oversees investments. Can there be a more damaging assertion for someone like BitBoy Crypto who engages in the business of providing advice and commentary on cryptocurrency investments?

22.

The Atozy Video disputes that Armstrong invested his own money in the cryptocurrency discussed in the BitBoy Crypto video. According to Mengshoel there was “no way” Armstrong invested his own money “unless he did it with a goal to dump it on his own followers.” The statement is false and harmful to Armstrong and his reputation in the cryptocurrency space. Mengshoel either knew his statement was false or made it with reckless disregard of its falsity.

23.

The Atozy Video is a hit job, an attack piece, not some investigative report. It relies upon supposition for its premise of wrongful intent by Armstrong. It wholly lacks supporting facts. Investigative reporters don’t say “I hate sleezebags like this, because they ruin it for everyone” as the Atozy Video says.

D. The Atozy Video Has Harmed Armstrong.

24.

Reflecting Mengshoel’s hatred of Armstrong, the Atozy Video ends with an all-out effort to damage Armstrong’s reputation in cryptocurrency commentary asserting that “this man [Armstrong] has enriched himself by being an all-around dirtbag” and raises a false alarm stating, “if you have any friends who watch BitBoy Crypto, send them this video.” The latter statement is a classic *two for the price of one*. It attempts to drive the audience away from BitBoy Crypto and divert that audience to Mengshoel’s Atozy Video.

25.

As if the Atozy Video isn’t damaging enough on its own, it also spawned at least one follow on video. “24hrsCrypto” released a YouTube video entitled “Bitboy’s Successful Exit Scam Now EXPOSED [Hardcore Evidence].” The 24hrsCrypto video specifically mentions the Atozy Video and appears to be based almost entirely upon the Atozy Video. The 24hrsCrypto video states that it is directly meant for BitBoy Crypto’s audience and then goes on to repeat the defamatory statements from the Atozy Video.

Count I
Defamation
26.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

27.

Atozy made numerous false statements concerning Armstrong as set forth above, with knowledge of the statements' falsity or reckless disregard of the same.

28.

Those false statements were communicated to third parties in very large groups: the people who saw the Atozy Video and the people who saw the 24hrs Crypto video.

29.

As a result of the wrongful conduct of Atozy, Armstrong and BitBoy Crypto suffered harm to their reputations. This harm caused a diminution in Armstrong's business and a reduction in the generation of new business.

30.

Atozy's wrongful conduct constitutes libel and slander pursuant to O.C.G.A. §§51-5-1, 51-5-3 and 51-5-4.

31.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's defamation.

Count II
Defamation Per Se

32.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

33.

The Atozy Video imputes an unfitness by Armstrong to perform his job as a cryptocurrency commentator. The Atozy Video brazenly states that the public should not look to BitBoy Crypto for any advice and that Armstrong is not a reputable source for crypto advice.

34.

Throughout the Atozy Video, Armstrong is accused of lacking integrity as a cryptocurrency commentator. Comments stated Armstrong will be investigated by the SEC and questioning how BitBoy Crypto's video was allowed to exist calls in to question Armstrong's reputation and integrity.

35.

The Atozy Video blatantly tries to redirect BitBoy Crypto's followers to the Atozy Video to the prejudice of Armstrong in his profession as a cryptocurrency commentator. The thrust of the entire Atozy Video is that Armstrong acted unprofessionally and relentlessly attacks his honesty.

36.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's defamation per se.

Count III
Intentional Infliction of Emotional Distress

37.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

38.

Defendant's conduct in defaming Armstrong was both intentional and outrageous.

39.

Each one of Defendant's false statements was extreme and outrageous.

40.

Defendant's conduct was directed towards Armstrong and has caused Armstrong severe emotional distress. As a result of Defendant's outrageous statements, Armstrong now suffers from severe anxiety that he will be perceived as a felon, a fraud, and untrustworthy in business or in general. Armstrong now has recurring bouts of depression about whether Defendant's defamatory statements will harm Armstrong financially and socially and whether he will be able to recover his good reputation and business as a result. Contemplating the loss of his livelihood and his good standing in society has left Armstrong in a fragile emotional state with virtually no confidence that things will be better in the future.

41.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's tortious conduct.

Count IV
Negligent Infliction of Emotional Distress

42.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

43.

Defendant's conduct as set forth herein caused injury to Armstrong's reputation in the cryptocurrency field.

44.

Mr. Armstrong also suffered serious mental injury and distress as set forth herein as a result of Defendant's tortious conduct.

45.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's tortious conduct.

Count V
Tortious Interference with Business Relations or Potential Business Relations

46.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

47.

As alleged herein, the false and outrageous statements about Armstrong, his conduct, and his alleged illegality, dishonesty, and untrustworthiness were improper actions and/or wrongful conduct by the Defendant without privilege.

48.

Defendant acted purposefully, with malice, and with the intent to injure Armstrong.

49.

Defendants' defamation and wrongful conduct induced third parties not to enter into or continue a business relationship with Armstrong. Defendants' conduct also caused financial injury to Armstrong by reducing the number of his followers because the falloff in followers directly translates into a falloff in business income.

50.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's tortious conduct.

Count VI
Violation of Uniform Deceptive Trade Practices Act (O.C.G.A. § 10-1-370 et seq.)

51.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

52.

Defendant's wrongful conduct as set forth herein occurred in the course of his business.

53.

As set forth more fully above, Defendant defamed Armstrong and accused him of fraud in his business.

54.

Defendant disparaged Armstrong/BitBoy Crypto's services and business in making false statements that Armstrong was engaged in a scam, that Armstrong was dishonest, and that he was engaged in fraud with respect to Pamp and other cryptocurrencies.

55.

Defendant's conduct constitutes deceptive trade practices pursuant to Georgia's Uniform Deceptive Trade Practices Act, O.C.G.A. § 10-1-372(a)(8).

56.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's tortious conduct.

Count VII
Violation of Fair Business Practices Act (O.C.G.A. § 10-1-390 et seq.)

57.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

58.

Defendant made public statements falsely claiming that Armstrong and BitBoy Crypto were engaged in fraud with respect to Pamp and other cryptocurrencies.

59.

Defendant also falsely claimed that the YouTube commentary videos of Armstrong and BitBoy Crypto are untrustworthy and should not be viewed because Armstrong was, among other accusations, dishonest.

60.

Defendant's actions are unlawful pursuant to Georgia's Fair Business Practices Act ("FBPA"), O.C.G.A. § 10-1-393(b)(7), and (8).

61.

Plaintiff has sustained damages in excess of \$75,000 as a direct and proximate result of Atozy's tortious conduct.

Count VIII
Punitive Damages

62.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

63.

Mengshoel knowingly and intentionally, or willfully and wantonly, and maliciously engaged in conduct with the objective of injuring Armstrong.

64.

Armstrong is entitled to recover punitive damages against Mengshoel in accordance with O.C.G.A. § 51-12-5.1 in order to deter similar conduct in the future, and to penalize and punish Mengshoel for his outrageous conduct, in an amount to be determined by the jury.

Count IX
Attorney's Fees

65.

Plaintiff realleges, as if fully set forth herein, the allegations of paragraphs 1 through 25 above.

66.

Armstrong should be awarded its attorneys' fees and expenses of litigation from Mengshoel, pursuant to OCGA § 13-6-11 because Mengshoel has been stubbornly litigious, have acted in bad faith, and have caused Armstrong unnecessary trouble and expense.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant Mengshoel as follows:

- General, compensatory, and special damages, including but not limited to lost profits, in amounts to be proven at trial;
- Prejudgment interest and post-judgment interest;
- Punitive damages;
- Treble damages to the extent available by law;
- Attorney's fees and costs of suit to the extent available by law;
- For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury on all issues so triable.

[signature on following page]

Respectfully submitted, this 12th day of August 2022.

KREVOLIN & HORST, LLC

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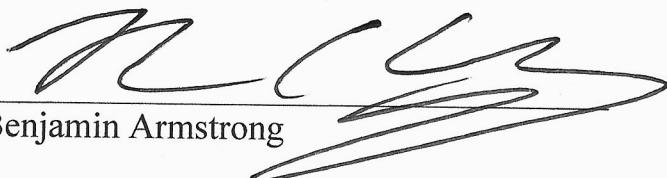
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VERIFICATION OF COMPLAINT

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury that I have reviewed the Verified Complaint in the above-captioned matter with regard to the facts contained therein. The facts set forth therein are true and correct where derived from my own personal knowledge and are believed to be true and correct where derived from the knowledge of others or from documents maintained in the course of business or from public records.

This 2nd day of August 2022.


Benjamin Armstrong

Sworn to and subscribed before me
This 9 day of August 2022



Notary Public

My Commission Expires: 5/16/2023

